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BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

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In the matter of:

Notice of Alternative Policy Options
For Managing Capacity at LaGuardia
Airport and Proposed Extension of the
Lottery Allocation

Docket FAA-01-9852 - 21

COMMENTS OF US AIRWAYS, INC.

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July 12, 2001

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COMMENTS OF US AIRWAYS, INC.

US Airways, Inc. ("US Airways") hereby submits these comments in response to the Notice and Request for Comments ("Notice") regarding the proposed extension of the LaGuardia Lottery Allocation ("LGA Phase One"), 66 Fed. Reg. 31731, 31734-35 (June 12, 2001). US Airways generally supports the proposal to extend the allocation of AIR-21 slot exemptions pursuant to last year's lottery, subject to its comments below. However, US Airways also takes this opportunity to note that it has serious concerns with the long-term demand management proposals outlined in Phase Two of the FAA's Notice.

Background.

US Airways was an early supporter of the FAA's plan to cap hourly operations and allocate a limited number of AIR-21 slot exemptions at LaGuardia ("LGA") via a lottery as a means of addressing the congestion crisis there last year. The lottery struck a fair and appropriate balance between the policy objectives of AIR-21 and the serious congestion crisis then gripping LGA. Without any doubt, the cap on hourly operations and last year's slot lottery have been a success: delays and congestion at LGA have been greatly reduced. Indeed, as the FAA points out, the number of delays in April 2001 was lower than the number of pre-AIR-21

delays in April 2000. (66 Fed. Reg. at 31733, Table 1.) That is, using delays as the measure, airport operations at LGA are running more smoothly now than before AIR-21 was enacted. US Airways commends the FAA and the Port Authority for their leadership in developing and implementing the voluntary cap and slot lottery solution, both of which have resulted in a drastic reduction in the delays at LGA.

However, given the reduction in delays and alleviation of the congestion crisis at LGA, US Airways is concerned by the sudden rush – to the point of “set[ting] aside consideration” of critical “legal” issues – to implement major changes in the long-standing LGA operational environment with proposals that are fundamentally flawed and legally suspect. Though called “demand management” proposals, the idea that these proposals (*e.g.*, congestion pricing, slot auctions) will necessarily result in further reducing congestion at LGA is highly questionable and unproven. Indeed, at no point in its discussion of the long-term proposals in the Federal Register Notice does the FAA explain or cite to any evidence suggesting how congestion will be reduced.

While it is highly questionable whether they will, in fact, reduce congestion, it is relatively certain that the proposals under consideration will result in increased air fares with no resulting improvement in consumer service and convenience. They will also significantly undermine, if not negate, the long-term commitment and investments of incumbent carriers to provide smaller communities with critical access to LGA. And, insofar as they constitute a proposed re-allocation of operating rights, they will disrupt and jeopardize existing patterns of service. It is troubling that the FAA Notice does not even acknowledge these critical issues in its discussion of the various options being proposed.

Importantly, the proposals also amount to a type of economic re-regulation of the airline industry which is not only inconsistent with the fundamental principle of de-regulation, but goes well beyond the FAA's jurisdictional mandate. In addition, the FAA has turned the regulatory process on its head by deferring consideration of the legal issues until after the various proposals are evaluated.

In short, the long-term proposals outlined by the FAA may have the effect of undermining the very objectives the FAA is pursuing. US Airways certainly supports efforts to continue reducing congestion and improving operational efficiency at LaGuardia. Yet much further study is necessary before the FAA rushes to implement an ill-considered, untested mechanism at LGA to address a "crisis" that has since passed. There is also a critical need to avoid any missteps with this important decision because (i) other airports are watching closely what is done at LGA and will seek to exploit whatever happens there, despite the fact that those other airports are not as structurally challenged and constrained as LGA, and (ii) any fundamental structural change in the operating/economic environment at LGA will be very difficult to undo once implemented.

LGA Phase One.

US Airways generally supports the extension of the LGA lottery until October 26, 2002, as proposed in LGA Phase One. As noted above, the LGA slot exemption lottery and hourly slot caps have alleviated the congestion crisis at LGA, reducing the number of delays to pre-AIR-21 levels. That being said, US Airways has some concerns with particular aspects of the lottery's proposed implementation and continuation as set forth below.

US Airways is neither a global network carrier, nor a low-cost, low-fare carrier, and it faces intense, increased competition from both new entrants and low-fare carriers in its core markets in the eastern United States. As such, it has concerns with the FAA's current proposal to make the 14 unused slots available in the first instance to new entrant carriers when the December lottery resulted in a significant loss of service for several carriers including US Airways. US Airways would otherwise request that all carriers forced to surrender AIR-21 slots as a result of the cap/lottery be made whole before any unused or reclaimed slots are made available to new entrants. Nonetheless, US Airways has decided not to allow this concern to diminish its support for the FAA's Phase One extension proposal given that it is the long-term proposals outlined in Phase Two that have the most serious consequences for air carriers, the traveling public, and communities with service to LaGuardia.

US Airways also does not object to using the established rank order from the December 4, 2000 lottery (66 Fed. Reg. at 31735), *provided that* the selection process starts where it ended at the close of the last lottery—with US Airways. The December lottery ended with a contingency round in which seven slot exemptions originally granted to Legend Airlines (“Legend”) were reallocated to the lottery's four remaining carriers—Delta Connection, American Eagle, Continental Express, and US Airways Express. As had been the case in previous rounds during the December lottery, the FAA allowed each carrier to select two slot exemptions in the Legend contingency round. However, because US Airways was selecting last of the four carriers and only seven slot times were available, US Airways was able to select only one slot. In other words, the lottery ended midway through US Airways' selection. Because the

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previous lottery ended during US Airways' selection, US Airways should be next in line to make its remaining selection once the new entrants have had an opportunity to select from the available slots in round one of the FAA's Phase One proposal.¹ Any other result would be patently unfair and inappropriate. For example, if the FAA were to start at the beginning of the selection order each and every time additional slot exemptions became available for reallocation, as opposed to starting where the previous round left off, such a system would effectively give Delta (which selected first among the incumbent carriers) the first choice of available slots, so long as the lottery system remains in effect.

In sum, US Airways generally supports the extension of last year's lottery procedures. However, US Airways has serious concerns with the demand management proposals outlined in Phase Two which, though well-intentioned, are flawed in numerous respects. While US Airways will comment further on these long-term proposals at the appropriate time, it appreciates the opportunity to submit these comments and looks forward to working with the FAA throughout this process.

Respectfully submitted,



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¹ On December 11, 2000, in response to the FAA's request for additional comments on the procedures used during the December 4, 2000 lottery, US Airways argued that because the lottery ended midway through its selection, it should be next in line to select an additional slot should one, for whatever reason, become available.

CERTIFICATE OF SERVICE

I certify that on this day I served a copy of the foregoing Comments of US Airways, Inc.

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